

INSTRUCTIONS FOR COMPLETING DD FORM 2564

1. INITIAL DETERMINATIONS (Note: Initial Privacy Act requests which are also processed as initial FOIA requests are to be reported in this report as "FOIA" requests and on the Annual Privacy Act Report as "Privacy Act" requests.)

a. Total Requests: Enter into block 1.a the total number of initial FOIA requests that were COMPLETED during this reporting period. This number can include requests received in the previous reporting period but responded to in the current reporting period.

b. Granted in Full: Enter into block 1.b the total number of completed FOIA requests that were granted in full during this reporting period. This may include requests granted in full by your activity but requiring additional action by another activity.

c. Denied in Part: **(ONLY IDAs WILL REPORT HERE.)** Enter into block 1.c the number of completed FOIA requests that were denied in part based on one or more of the nine FOIA exemptions. (DO NOT REPORT FEE WAIVER DENIALS HERE.)

d. Denied in Full: **(ONLY IDAs WILL REPORT HERE.)** Enter into block 1.d the number of completed FOIA requests that were denied in full based on one or more of the nine FOIA exemptions. (DO NOT REPORT FEE WAIVER DENIALS HERE.)

e. "Other Reasons": Enter into block 1.e the total number of FOIA requests in which you were unable to provide all or part of the requested information for one or more of the "Other Reasons" described in paragraph 2.b below.

f. Total Actions: Enter into block 1.f the total number of FOIA actions taken during the reporting period by summing the numbers contained in blocks 1.b through 1.e. (NOTE: This sum will be equal to or greater than the number contained in block 1.a.

2. DENIALS/OTHER REASON RESPONSES

a. Exemptions Invoked on Initial Determinations: **(ONLY IDAs WILL REPORT HERE.)** Enter into blocks 2a(b)(1) through 2a(b)(9) the number of times an exemption was claimed for each initial request that was denied in full or in part. Since more than one exemption may be claimed when responding to a single request, the sum of blocks 2a(b)(1) through 2a(b)(9) will be equal to or greater than the sum of 1.c and 1.d. (NOTE: Exemption (b)(7) is now broken down to its six subcategories (b)(7)(A) through (b)(7)(F)].

b. "Other Reasons" claimed on Initial Determinations:
The following describes the circumstances when a FOIA request is not processed due to "Other Reasons":

(1) No Records: Enter into block 2b.1 the number of times a reasonable search of files failed to identify records responsive to an initial FOIA request.

(2) Referrals: Enter into block 2b.2 the number of times a request was referred to another DON activity, DoD component, or Executive Branch Agency for action.

(3) Request Withdrawn: Enter into block 2b.3 the number of times a request was withdrawn by a requester.

(4) Fee-Related Reason: Enter into block 2b.4 the number of times a FOIA request could not be processed because the requester was unwilling to pay fees associated with the request, was past due in payment of fees from a previous request, or disagreed with the fee estimate.

(5) Records Not Reasonably Described: Enter into block 2b.5 the number of times a FOIA request could not be acted upon because a desired record had not been described with sufficient particularity to enable a knowledgeable DON official to locate it by conducting a reasonable search.

(6) Not a Proper FOIA Request for Some Other Reason: Enter into block 2b.6 the number of times the requester failed unreasonably to comply with procedural requirements, other than those fee-related issues discussed in paragraph 2.b(4) above, imposed by the FOIA, regulation and/or other published rules or directives.

Enclosure (2)

(7) Not an Agency Record: Enter into block 2b.7 the number of times a requester was provided a response indicating that the requested information was "not an agency record" within the meaning of the FOIA.

(8) Duplicate Request: Enter into block 2b.8 the number of files closed because the requests were duplicative of other requests already completed or currently in process, and a response to the requester is unnecessary. (This number includes identical requests received via different means (e.g., electronic mail, facsimile, postal service mail, courier) at the same or different times.)

(9) Other (Specify): Enter into block 2b.9 the number of times a FOIA request could not be processed because the requester did not comply with published rules, other than for those reasons described in paragraphs 2.b(1) through 2.b(8) above. A statement explaining how the requester failed to comply with published rules must be detailed on a plain sheet paper and attached to the DD Form 2564.

(10) Total: Enter into block 2b.10 the sum of blocks 2b.1 through 2b.9. This sum will be equal to or greater than the number reported in block 1.e since more than one "Other Reason" may be claimed on a FOIA request.

c. (b)(3) Statutes Invoked on Initial Determinations: (ONLY IDAs WILL REPORT HERE.) Report here information about each statute cited to support a (b)(3) denial, in whole or in part, of a responsive document. Ensure that, when citing to a (b)(3) statute, you include the specific sections of the statute that are invoked. See enclosure (3) for a sampling of (b)(3) statutes. NOTE: The sum of the total number of instances in which (b)(3) statutes were invoked will be equal to or greater than the number contained in block 2a(b)(3).

(1) (b)(3) Statute Claimed: Enter into block 2.c under "(b)(3) STATUTE CLAIMED" the title of the (b)(3) statute claimed to support each (b)(3) exemption invoked in response to a FOIA request.

(2) Number of Times Statute Claimed: Enter into block 2.c under "NUMBER OF INSTANCES" the number of times each (b)(3) statute is claimed.

(3) (b)(3) Statute Upheld in Court?: Enter into block 2.c under "COURT-UPHELD? (Yes or No)" a notation as to whether the statute has been upheld in a court hearing.

(4) Description of Withheld Material: Enter into block 2.c under "CONCISE DESCRIPTION OF MATERIAL WITHHELD" a detailed description of the material withheld in each instance of the statute's use.

3. APPEAL DETERMINATIONS (ONLY OGC AND JAG WILL REPORT HERE)

a. Total Requests: Enter into block 3.a the total number of FOIA appeals that were COMPLETED during this reporting period. (This number can include appeals received in the previous reporting period but responded to in the current reporting period.)

b. Granted in Full: Enter into block 3.b the total number of completed FOIA appeals that were granted in full during the fiscal year reporting period.

c. Denied in Part: Enter into block 3.c the number of completed FOIA appeals that were denied in part based on one or more of the nine FOIA exemptions. (DO NOT REPORT FEE WAIVER DENIALS HERE.)

d. Denied in Full: Enter into block 3.d the number of completed FOIA appeals that were denied in full based on one or more of the nine FOIA exemptions. (DO NOT REPORT FEE WAIVER DENIALS HERE.)

e. "Other Reasons": Enter into block 3.e the total number of FOIA appeals in which you were unable to provide all or part of the requested information for one or more of the reasons described in item 4.b below.

f. Total Actions: Enter into block 3.f the total number of FOIA appeal actions taken during the reporting period by summing the numbers contained in blocks 3.b through 3.e. (NOTE: This sum will be equal to or greater than the number contained in block 3.a.)

4. APPEAL DENIALS/OTHER REASON RESPONSES (ONLY OGC AND JAG WILL REPORT HERE.)

a. Exemptions Invoked on Appellate Determinations: Enter into blocks 4a(b)(1) through 4a(b)(9) the number of times an exemption was claimed for each appeal that was denied in full or in part. Since more than one exemption may be claimed when responding to a single appeal, the sum of blocks 4a(b)(1) through 4a(b)(9) will be equal to or greater than the sum of 3.c and 3.d. (NOTE: Exemption (b)(7) is now broken down to its six subcategories (b)(7)(A) through (b)(7)(F)].

b. "Other Reasons" claimed on Appellate Determinations: The following describes the circumstances when a FOIA appeal is not processed due to "Other Reasons":

(1) No Records: Enter into block 4b.1 the number of times a reasonable search of files failed to identify records responsive to a FOIA appeal.

(2) Referrals: Enter into block 4b.2 the number of times a FOIA appeal was referred to another DON activity, DoD component, or Executive Branch Agency for action.

(3) Request Withdrawn: Enter into block 4b.3 the number of times an appeal was withdrawn by an appellant.

(4) Fee-Related Reason: Enter into block 4b.4 the number of times a FOIA appeal could not be processed because the appellant was unwilling to pay fees associated with the appeal, was past due in payment of fees from a previous request/appeal, or disagreed with the fee estimate.

(5) Records Not Reasonably Described: Enter into block 4b.5 the number of times a FOIA request could not be acted upon because a desired record had not been described with sufficient particularity to enable a knowledgeable DON official to locate it by conducting a reasonable search.

(6) Not a Proper FOIA Request for Some Other Reason: Enter into block 4b.6 the number of times the appellant failed unreasonably to comply with procedural requirements, other than those fee-related issues discussed in paragraph 4.b(4) above, imposed by this Instruction and/or other published rules or directives.

Enclosure (2)

(7) Not an Agency Record: Enter into block 4b.7 the number of times a requester was provided a response indicating that the requested information was "not an agency record" within the meaning of the FOIA and this Instruction.

(8) Duplicate Appeal: Enter into block 4b.8 the number of files closed because the appeals were duplicative of another appeal already completed or currently in process, and a response to the appellant is unnecessary. (This number includes identical appeals received via different means (e.g., electronic mail, facsimile, postal service mail, courier) at the same or different times.)

(9) Other (Specify): Enter into block 4b.9 the number of times a FOIA appeal could not be processed because the appellant did not comply with published rules, other than for those reasons described in paragraphs 4.b(1) through 4.b(8) above. A statement explaining how the appellant failed to comply must be detailed on a plain sheet paper and attached to the DD Form 2564.

(10) Total: Enter into block 4b.10 the sum of blocks 4b.1 through 4b.9. This sum will be equal to or greater than the number reported in block 4.e since more than one "Other Reason" may be claimed on a FOIA appeal.

c. (b)(3) Statutes Invoked on Appellate Determinations: Report here information about each statute cited to support a (b)(3) denial, in whole or in part, of a responsive document on appeal. Ensure that, when citing to a (b)(3) statute, you include the specific sections of the statute that are invoked. NOTE: The sum of the total number of instances in which (b)(3) statutes were invoked will be equal to or greater than the number contained in block 4a(b)(3).

(1) (b)(3) Statute Claimed: Enter into block 4.c under "(b)(3) STATUTE CLAIMED" the title of the (b)(3) statute claimed to support each (b)(3) exemption invoked in response to a FOIA appeal.

(2) Number of Times Statute Claimed: Enter into block 4.c under "NUMBER OF INSTANCES" the number of times each (b)(3) statute is claimed.

Enclosure (2)

(3) (b)(3) Statute Upheld in Court?: Enter into block 4.c under "COURT-UPHELD? (Yes or No)" a notation as to whether the statute has been upheld in a court hearing.

(4) Description of Withheld Material: Enter into block 4.c under "CONCISE DESCRIPTION OF MATERIAL WITHHELD" a detailed description of the material withheld in each instance of the statute's use.

(5) Number of Appeals Received: Enter into block 6 the number of appeals RECEIVED during the reporting period, disregarding the word "initial."

5. NUMBER AND MEDIAN AGE OF PENDING INITIAL REQUEST FILES. The median age of pending requests shall be calculated using the number of days from request receipt to the end of the reporting period.

a. Example of Median Calculation: If given five cases aged 10, 25, 35, 65, and 100 days from date of receipt, the total number of requests pending is 5 and the median age is the middle number (not the average) in this set of numbers (i.e., "35"). NOTE: If the number of pending cases equals an even number, the median age is then the average of the two middle numbers.

b. Mean (average) Values: If an activity believes that "average" (mean) processing time is a better measure of performance, that activity is encouraged to report the "mean" value as a separate attachment to the DD Form 2564. This report, however, does not negate the requirement to report the median value as well. However, the mean value will not be included in the consolidated DON report to DOD unless all Echelon 2 activities and CMC (ARAD) report it.

c. Accuracy of Calculations: Activities must ensure the accuracy of calculations. As a backup, the raw data used to perform calculations should be recorded and preserved. This will enable recalculation of median and mean values as necessary. N09B30 or Echelon 2 activities may require subordinates to forward raw data, as deemed necessary and appropriate.

Enclosure (2)

d. Number of Initial FOIA Cases Pending:

(1) Enter into block 5.a(1) the total number of open, pending initial FOIA requests on file with your activity at the start of the reporting period. (NOTE: The number of pending requests at the beginning of the current reporting period should be the same as the number of pending requests at the end of the previous reporting period).

(2) Enter into block 5.a(2) the total number of open, pending initial FOIA requests on file with your activity at the end of the reporting period.

e. Median Age of Pending Request Files:

(1) Enter into block 5.b(1) the median age (in days, including holidays and weekends) of pending initial FOIA requests on file with your activity at the start of the reporting period. (NOTE: The median age of pending requests at the beginning of the current reporting period should be the same as the median age of pending requests at the end of the previous reporting period).

(2) Enter into block 5.b(2) the median age (in days, including holidays and weekends) of pending initial FOIA requests on file with your activity at the end of the reporting period.

6. TOTAL NUMBER OF INITIAL REQUESTS RECEIVED DURING THE CURRENT REPORTING PERIOD. Enter into block 6 the total number of initial FOIA requests received during the current reporting period. (NOTE: This should not be the same number as that reported in block 1.a which recorded the number of completed requests.)

7. TYPES OF INITIAL REQUESTS PROCESSED AND MEDIAN AGE.

Information is reported for three types of initial requests completed during the reporting period by type (Simple, Complex, and Expedited Processing). The following items of information are to be reported for each category of requests:

a. Total Number of Initial Requests (Simple). Enter into block 7.a under "TOTAL NUMBER OF CASES" the number of initial requests processed as "Simple" and completed during the reporting period.

Enclosure (2)

b. Total Number of Initial Requests (Complex). Enter into block 7.a under "TOTAL NUMBER OF CASES" the number of initial requests processed as "Complex" and completed during the reporting period.

c. Total Number of Initial Requests (Expedited Processing). Enter into block 7.a under "TOTAL NUMBER OF CASES" the number of initial requests processed as "Expedited Processing" and completed during the reporting period.

d. Median Age (Simple). Enter into block 7.a under the heading "MEDIAN AGE (DAYS)" the median number of calendar days (including weekends and holidays) required to process those "Simple" requests completed during the reporting period.

e. Median Age (Complex). Enter into block 7.a under the heading "MEDIAN AGE (DAYS)" the median number of calendar days (including weekends and holidays) required to process those "Complex" requests completed during the reporting period.

f. Median Age (Expedited Processing). Enter into block 7.a under the heading "MEDIAN AGE (DAYS)" the median number of calendar days (including weekends and holidays) required to process those "Expedited Processing" requests completed during the reporting period.

8. FOIA FEES COLLECTED FROM THE PUBLIC. Enter into block 8 the total amount of FOIA processing fees collected from the public during the reporting period.

9. FOIA PROGRAM COSTS

a. Number of Full Time Staff: Enter into block 9.a the number of personnel dedicated to working FOIA full time during the fiscal year, expressed in work-years (manyyears).

b. Salary Costs of Full Time Staff: Total the salary costs of each full time staff member reported in paragraph 9.a Military personnel salary costs will be calculated using the provided Composite Rate Chart. Civilian personnel salary costs will be calculated using your local OPM salary table for their grade with 16% added for benefits. NOTE: This figure will be used to calculate the Total Program Cost reported in block 9.d of DD Form 2564.

Enclosure (2)

c. Number of Part Time Staff: Enter into block 9.b the number of work-years (manyyears) for part-time staff and incidental hourly personnel utilized for FOIA processing during the fiscal year. One work-year (manyyear) is comprised of 2,080 hours. See sample table in paragraph 9.e below.

d. Salary Costs of Part Time Staff: Enter the total salary costs of part-time and incidental hourly personnel reported in paragraph 9.c. Part-time employee salary costs will be calculated using the Composite Rate Chart for military personnel and the OPM salary table for their grade plus 16% for civilian employees. Incidental hourly employee salary costs will be calculated by totaling items 4 through 7 from applicable DD Forms 2086 and 8086-1. For example: total search costs plus total review/excising costs plus total correspondence and forms preparation costs plus total coordination of approval/denial costs plus total other activity costs equals total incidental hourly employee salary costs (by hours) which are then translated to work-years. NOTE: This figure will be used to calculate the Total Program Cost reported in block 9.d of DD Form 2564. See sample table in paragraph 9.e below.

e. Sample Table: A sample table to calculate hours and salaries for part-time and incidental hourly personnel follows:

Employee	# Hrs Worked	Work Years	Salary	Note
J.Q. Public		.33	\$13,386.78	GS-9 paralegal working in legal office who dedicates 1/3 of his work hours daily to FOIA processing.
H.S. Student		.25	\$4,640.87	GS-2 after-school, part-time employee working in FOIA office who dedicates 2 hours daily to FOIA processing.
CPL U.S. Marine		.25	\$6,621.25	E-4 military enlisted working in mailroom who dedicates 1/4/ of his work hours daily to FOIA processing.
RADM I.D. Authority		.01	\$1,122.60	O-6 military officer IDA who dedicates 1% of his work hours daily to FOIA issues.
Incidental Hrs. 7,180 (Clerical \$12.00/hour)	3.45		\$86,160.00) This information taken from) items 4 through 7 of DD Forms) 2086 and 2086-1 for inci-

Enclosure (2)

Incidental Hrs. 13,693	6.58	\$342,325.00)	dental employees who work
(Professional \$25.00/hour))	FOIAs hourly by specific
)	tasking.*
Incidental Hrs. 987	.47	\$44,415.00)	
(Executive \$45.00/hour))	

(*NOTE: total search hours plus total review hours plus total correspondence preparation hours plus total coordination of approval/denial hours plus total other activity hours equals total incidental hours worked.)

f. Estimated Litigation Costs: Enter into block 9.c your best estimate of litigation costs for the fiscal year, both at the administrative and appellate levels.

g. Total Cost of FOIA Program Operation: The total cost for FOIA program operation shall be determined as follows.

Step 1: Sum total costs calculated in paragraphs 9.b and 9.d (TOTAL SALARY COSTS).

Step 2: Sum items 8 through 12 of applicable DD Forms 2086 and 2086-1 (TOTAL OPERATING COSTS).

Step 3: Add sums from steps 1 and 2. Multiply total by 25% to obtain overhead calculation.

Step 4: (OPTIONAL) Total of routine costs processed. Activities which process routine kinds of requests may find it economical to develop an average cost factor for processing repetitive routine requests, rather than tracking individual costs of each request processed. Care should be exercised so that routine request costs are comprehensive to include a 25% overhead.

Step 5. Enter into block 9.d the sum of the totals for steps 1, 2, 3, and 4.